

(This material was compiled from a Bankruptcy overview prepared by Attorney David D. Lennon.)

FEATURES OF THE VARIOUS BANKRUPTCY CHAPTERS

CHAPTER 7

1. Provides LIQUIDATION of non-exempt assets of debtor.
 2. A TRUSTEE is appointed TO COLLECT ASSETS and PAY CLAIMS.
 3. UNSECURED DEBT is WIPED OUT BY DISCHARGE, with certain exceptions.
 4. Certain LIENS MAY BE VOIDED the Court:
 - * Non-purchase money liens on household goods
 - * Judgement liens
 5. DEBTOR MAY CONVERT to Chapter 11, 12 OR 13.
 6. CREDITOR MAY ask Court to CONVERT to CHAPTER 11.
 7. DISCHARGE BARS another Chapter 7 filing FOR SIX YEARS.
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CHAPTER 11

1. REORGANIZATION OF A BUSINESS-INDIVIDUALS MAY FILE, BUT EXPENSIVE
2. STOCKBROKERS AND COMMODITY BROKERS are INELIGIBLE to file
3. DEBTOR usually remains IN POSSESSION
4. DEBTOR MUST FILE MONTHLY OPERATING REPORTS
5. COMPENSATION OF corporate OFFICERS MUST BE APPROVED
6. DEBTOR HAS EXCLUSIVE PERIOD of 120 days TO SUBMIT PLAN
7. CREDITORS MAY SUBMIT PLAN AFTER DEBTOR'S TIME IS UP
8. Seven largest unsecured CREDITORS FORM CREDITORS COMMITTEE
9. TRUSTEE MAY BE APPOINTED-BARS filing of a PLAN BY DEBTOR

10. EXAMINER MAY BE APPOINTED IF NO TRUSTEE-rates business
 11. Plan MUST SORT creditors BY CLASS
 12. Every CLAIM WITHIN a CLASS must be TREATED IDENTICALLY
 13. Plan must be ACCEPTED BY ALL IMPAIRED CLASSES OR Plan MAY BE CONFIRMED BY "CRAM DOWN", IF:
 - * Not unfairly discriminatory, and
 - * Fair and equitable to dissenting classes.
 14. DEBTOR MAY REQUEST CONVERSION to Chapter 7, 12, or 13.
 15. CREDITORS MAY only ask Court to CONVERT TO CHAPTER 7, AND ONLY IF DEBTOR NOT A FARMER OR NONBUSINESS CORPORATION
 16. ANY PARTY MAY ASK FOR DISMISSAL, FOR GOOD CAUSE
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CHAPTER 13

1. Only INDIVIDUAL DEBTOR is ELIGIBLE
2. STANDING TRUSTEE
3. CO-DEBTOR STAY protects EXCEPT FOR PROFESSIONAL SURETIES
4. CO-DEBTOR STAY CAN BE LIFTED, WHERE:
 - * CO-DEBTOR ACTUALLY RECEIVED CONSIDERATION
 - * TO EXTENT CREDITOR'S CLAIM UNPAID BY PLAN
 - * IRREPARABLE HARM TO CREDITOR
5. DEBTOR HAS EXCLUSIVE RIGHT TO PROPOSE PLAN
6. PLAN PAYS DEBTS THROUGH COURT, FOR 36 TO 60 MONTHS
7. LONG-TERM DEBTS MAY BE PAID OUTSIDE PLAN
8. PLAN MAY MODIFY size & timing of PAYMENTS EXCEPT MORTGAGE ON DEBTOR'S RESIDENCE
9. DEBTOR RETAINS PROPERTY AND MAY SELL, LEASE, OR USE IT
10. PLAN MUST PROVIDE:

- * SUFFICIENT INCOME to be paid in
 - * FULL PAYMENT OF PRIORITY CLAIMS
 - * SAME TREATMENT FOR ALL CLAIMS OF A CLASS
11. PLAN MUST GET COURT APPROVAL, AND WILL IF
 - * PLAN PAYS OBJECTING CREDITOR'S TOTAL CLAIM, OR
 - * DEBTOR'S DISPOSABLE INCOME FOR 3 YEARS GOES TO PLAN
 12. VERY BROAD DISCHARGE upon completion of plan-
 - * EVEN DEBTS FROM FRAUD ARE DISCHARGED
 13. ALIMONY, CHILD SUPPORT, HEAL LOANS NOT DISCHARGED
 14. HARDSHIP DISCHARGE IF DEBTOR FAILS and fairness dictates relief:
 - * Each creditor must have received more than in a Chapter 7
 - * Modification of plan must not be practicable
 - * Discharge is not as broad; fraud and willful misconduct debts are not discharged
 15. DEBTOR MAY CONVERT TO CHAPTER 7, 11, or 12
 16. CREDITORS MAY ASK FOR CONVERSION TO CHAPTER 11 or 12, UNLESS DEBTOR IS A FARMER

CHAPTER 12

1. FAMILY FARMER with regular income-INCLUDES FAMILY CORPORATION
 - * Total debts do not exceed \$1,500,000.00
 - * At least 80% of noncontingent debt is from farming
 - * More than 50% of gross income from farming
2. CO-DEBTOR STAY

3. STANDING TRUSTEE
4. VERY SIMILAR TO CHAPTER 13
5. DEBTOR REMAINS IN POSSESSION AND CONTINUES TO OPERATE FARM
6. DEBTOR HAS EXCLUSIVE RIGHT TO FILE PLAN-even if removed from possession for cause
7. "WRITE-DOWN" PROVISION permits SECURED REAL ESTATE CLAIM to be REDUCED TO VALUE OF COLLATERAL
8. DISCHARGE SIMILIAR TO CHAPTER 13 HARDSHIP DISCHARGE; debts from certain willful misconduct and fraud are not discharged
9. DEBTOR MAY CONVERT CASE TO CHAPTER 7 OR DISMISS IT IF NOT PREVIOUSLY CONVERTED
10. ANY PARTY MAY REQUEST CONVERSION TO CHAPTER 7, OR DISMISSAL, FOR CAUSE
11. CHAPTER 12 WILL BE REPEALED AUTOMATICALLY OCTOBER 1, 1995